

Plaintiff's Name MR. ANTHONY BUTLER  
CDCR No. F07215  
Address P.O. Box 5102  
DELANO, CA 93216



IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

1:21-CV-01524-BAM(PC)

(Name of Plaintiff)

(Case Number)

ANTHONY BUTLER  
VS.

CIVIL RIGHTS COMPLAINT UNDER:

R. GONZALEZ-MORAN

☒ 42 U.S.C. 1983 (State Prisoner)

(Names of all Defendants)

I. Previous Lawsuits (list all other previous or pending lawsuits on additional page):

A. Have you brought any other lawsuits while a prisoner? Yes \_\_\_\_\_ No X

B. If your answer to A is yes, how many? \_\_\_\_\_

Describe previous or pending lawsuits in the space below. (If more than one, attach additional page to continue outlining all lawsuits in same format.)

1. Parties to this previous lawsuit:

Plaintiff NONE

Defendants \_\_\_\_\_

2. Court (if Federal Court, give name of District; if State Court, give name of County)

NONE

3. Docket Number NONE

4. Assigned Judge NONE

5. Disposition (Was the case dismissed? Appealed? Is it still pending?)

NONE

6. Filing Date (approx.) NONE

7. Disposition Date (approx.) NONE

## II. Exhaustion of Administrative Remedies

**NOTICE:** Pursuant to the Prison Litigation Reform Act of 1995, "[n]o action shall be brought with respect to prison conditions under [42 U.S.C. § 1983], or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." 42 U.S.C. § 1997e(a). Prior to filing suit, inmates are required to exhaust the available administrative remedy process, Jones v. Bock, 549 U.S. 199, 211, 127 S.Ct. 910, 918-19 (2007); McKinney v. Carey, 311 F.3d 1198, 1999 (9th Cir. 2002), and neither futility nor the unavailability of money damages will excuse the failure to exhaust, Porter v. Nussle, 534 U.S. 516, 524, 122 S.Ct. 983, 988 (2002). If the court determines that an inmate failed to exhaust prior to filing suit, the unexhausted claims will be dismissed, without prejudice. Jones, 549 U.S. at 223-24, 127 S.Ct. at 925-26.

A. Is there an inmate appeal or administrative remedy process available at your institution?

Yes X No \_\_\_\_\_

B. Have you filed an appeal or grievance concerning ALL of the facts contained in this complaint?

Yes X No \_\_\_\_\_

C. Is the process completed?

Yes X

If your answer is yes, briefly explain what happened at each level.

First level was partially granted,  
denied at 3rd level covered up,

No \_\_\_\_\_

If your answer is no, explain why not.

NONE

## III. Defendants

List each defendant's full name, official position, and place of employment and address in the spaces below. If you need additional space please provide the same information for any additional defendants on separate sheet of paper.

A. Name R. GONZALES-MORAN is employed as CORRECTIONAL OFFICER

Current Address/Place of Employment KERN VALLEY STATE PRISON

B. Name \_\_\_\_\_ is employed as \_\_\_\_\_

Current Address/Place of Employment \_\_\_\_\_

C. Name \_\_\_\_\_ is employed as \_\_\_\_\_

Current Address/Place of Employment \_\_\_\_\_

D. Name \_\_\_\_\_ is employed as \_\_\_\_\_

Current Address/Place of Employment \_\_\_\_\_

E. Name \_\_\_\_\_ is employed as \_\_\_\_\_

Current Address/Place of Employment \_\_\_\_\_

IV. Causes of Action (You may attach additional pages alleging other causes of action and the facts supporting them if necessary. Must be in same format outlined below.)

**Claim 1:** The following civil right has been violated (e.g. right to medical care, access to courts, due process, free speech, freedom of religion, freedom from cruel and unusual punishment, etc.):

U.S. CONST. 8th AMEND. SEXUAL ASSAULTED

**Supporting Facts** (Include all facts you consider important to Claim 1. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, *by name*, did to violate the right alleged in Claim 1.):

plaintiff hereby asserts thereon 11-23-2019 CORRECTIONAL OFFICER R. GONZALES-MORAN, while acting under color of Law in his official capacity willfully sexually assaulted plaintiff when he purposefully fondle plaintiff's genitals causing plaintiff to endure psychological injury and mental anguish,  
SEE exhibit A. 602 Appeal.

Claim 2: The following civil right has been violated (e.g. right to medical care, access to courts, due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.):

Supporting Facts (Include all facts you consider important to Claim 2. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, *by name*, did to violate the right alleged in Claim 2.):

# EXHIBIT A

STATE OF CALIFORNIA  
DEPARTMENT OF CORRECTIONS AND REHABILITATION  
OFFICE OF APPEALS  
P. O. BOX 942883  
SACRAMENTO, CA 94283-0001

**THIRD LEVEL APPEAL DECISION**

Date: September 29, 2021

In re: Butler, Anthony F07215  
KVSP

TLR Case No.: 2005592  
Local Log No.: KVSP-19-04449

**I. ISSUE ON APPEAL:**

Appellant alleges sexual misconduct by a Correctional Officer at Kern Valley State Prison (KVSP) on November 23, 2019.

**II. CONTROLLING AUTHORITY:**

**A. CONTROLLING AUTHORITY:**

- California Penal Code 832.7 and 832.8
- California Code of Regulations, Title 15, (CCR) Section 3084.9(A) and 3391
- Departmental Operations Manual (DOM) Section 33030.3.1 and 54100.25

**B. DOCUMENTS CONSIDERED:**

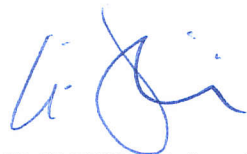
- CDCR 602 Appeal Form Log No.: KVSP-19-04449
- Confidential Supplement Attachment "C" to appeal KVSP-19-04449

**III. FINDINGS:**

The Office of Appeals (OOA) found by a preponderance of the documented evidence available that applicable policies were followed and that all relevant decisions and actions by the institution were proper relative to the staff complaint. The allegation of staff misconduct presented in the written complaint was reviewed and completed at the institution (KVSP) by a locally designated PREA investigator. The inquiry included a review of the evidence, an evaluation of any interview conducted and a review of current laws, policies and procedures. The appellant was informed that all staff personnel matters are confidential in nature. The inquiry was completed and it was found that staff **did not** violate policy with respect to the issue appealed. The Second Level appeal was partially granted in that an inquiry was completed and has been reviewed. The Office of Appeals Examiner reviewed the confidential inquiry (Attachment C) dated August 22, 2021. The institution's response complies with departmental policy and the appellant's staff complaint allegation was properly addressed.

**IV. CONCLUSION AND ORDER: DENIED**

After a thorough review of all documents and evidence, it is the order of the Office of Appeals that the appeal at the Third Level of Review is **DENIED**. This decision exhausts the administrative remedies available to the appellant with CDCR.



W. SINKOVICH, Appeals Examiner  
Office of Appeals  
cc: Grievance Coordinator, KVSP



STATE OF CALIFORNIA  
INMATE/PAROLEE APPEAL  
CDCR-0602 (REV. 03/12)

*Treat As Original*

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Side 1

IAB USE ONLY  <b>2005592</b>	Institution/Parole Region: <b>KVSP-O-19-04449</b>	Log #:	Category: <b>7</b>
	FOR STAFF USE ONLY		

You may appeal any California Department of Corrections and Rehabilitation (CDCR) decision, action, condition, policy or regulation that has a material adverse effect upon your welfare and for which there is no other prescribed method of departmental review/remedy available. See California Code of Regulations (CCR), Title 15, Section 3084.1. You must send this appeal and any supporting documents to the Appeals Coordinator (AC) within 30 calendar days of the event that led to the filing of this appeal. If additional space is needed, only one CDCR Form 602-A will be accepted. Refer to CCR 3084 for further guidance with the appeal process. No reprisals will be taken for using the appeal process.

Appeal is subject to rejection if one row of text per line is exceeded.

Name (Last, First):

WRITE, PRINT, or TYPE CLEARLY in black or blue ink.

<b>BUTLER, ANTHONY</b>	CDC Number: <b>F07215/</b>	Unit/Cell Number: <b>A-6-230</b>	Assignment: <b>Porter</b>
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State briefly the subject of your appeal (Example: damaged TV, job removal, etc.):

**STAFF SEXUAL MISCONDUCT**

A. Explain your issue (If you need more space, use Section A of the CDCR 602-A): **ON NOV 21,**

**2019 C.O. GONZALEZ did a cell search in A-6-230. He asked me and my cellie Rhodes to step out, and put me**

B. Action requested (If you need more space, use Section B of the CDCR 602-A):

Supporting Documents: Refer to CCR 3084.3.

☐ Yes, I have attached supporting documents.

List supporting documents attached (e.g., CDC 1083, Inmate Property Inventory; CDC 128-G, Classification Chrono):

☒ No, I have not attached any supporting documents. Reason: **Did not receive a cell search slip**

Inmate/Parolee Signature: **[Signature]** Date Submitted: **11-23-2019**

☐ By placing my initials in this box, I waive my right to receive an interview.

C. First Level - Staff Use Only

This appeal has been:

☒ Bypassed at the First Level of Review. Go to Section E.

☐ Rejected (See attached letter for instruction) Date: \_\_\_\_\_

☐ Cancelled (See attached letter) Date: \_\_\_\_\_

☐ Accepted at the First Level of Review.

Assigned to: \_\_\_\_\_

Title: \_\_\_\_\_

Date Assigned: \_\_\_\_\_

Date Due: \_\_\_\_\_

First Level Responder: Complete a First Level response. Include Interviewer's name, title, interview date, location, and complete the section below.

Date of Interview: \_\_\_\_\_

Interview Location: \_\_\_\_\_

Your appeal issue is: ☐ Granted ☐ Granted in Part ☐ Denied ☐ Other: \_\_\_\_\_

See attached letter. If dissatisfied with First Level response, complete Section D.

Interviewer: \_\_\_\_\_

(Print Name)

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Date completed: \_\_\_\_\_

Reviewer: \_\_\_\_\_

(Print Name)

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Date received by AC: \_\_\_\_\_

AC Use Only

Date mailed/delivered to appellant \_\_\_\_/\_\_\_\_/\_\_\_\_

NOV 26 2019

STAFF USE ONLY

REC BY OOA

JUN 08 2020



STATE OF CALIFORNIA  
INMATE/PAROLEE APPEAL  
CDCR-0602 (REV. 03/12)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Side 1

<i>Treat As Original</i>	IAB USE ONLY	
	Institution/Parole Region:	Log #:
<i>KVSP-0.19-04449</i>		Category:
FOR STAFF USE ONLY		

You may appeal any California Department of Corrections and Rehabilitation (CDCR) decision, action, condition, policy or regulation that has a material adverse effect upon your welfare and for which there is no other prescribed method of departmental review/remedy available. See California Code of Regulations (CCR), Title 15, Section 3084.1. You must send this appeal and any supporting documents to the Appeals Coordinator (AC) within 30 calendar days of the event that led to the filing of this appeal. If additional space is needed, only one CDCR Form 602-A will be accepted. Refer to CCR 3084 for further guidance with the appeal process. No reprisals will be taken for using the appeal process.

Appeal is subject to rejection if one row of text per line is exceeded.

WRITE, PRINT, or TYPE CLEARLY in black or blue ink.

Name (Last, First): <i>Butler</i>	CDC Number: <i>F07215</i>	Unit/Cell Number:	Assignment:
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State briefly the subject of your appeal (Example: damaged TV, job removal, etc.):

A. Explain your issue (If you need more space, use Section A of the CDCR 602-A):

B. Action requested (If you need more space, use Section B of the CDCR 602-A):

Supporting Documents: Refer to CCR 3084.3.

☐ Yes, I have attached supporting documents.

List supporting documents attached (e.g., CDC 1083, Inmate Property Inventory; CDC 128-G, Classification Chrono):

☐ No, I have not attached any supporting documents. Reason :

Inmate/Parolee Signature: \_\_\_\_\_ Date Submitted: \_\_\_\_\_

☐ By placing my initials in this box, I waive my right to receive an interview.

STAFF USE ONLY

REC BY OOA  
JUN 08 2020

**C. First Level - Staff Use Only**

Staff - Check One: Is CDCR 602-A Attached? ☐ Yes ☐ No

This appeal has been:

☐ Bypassed at the First Level of Review. Go to Section E.

☐ Rejected (See attached letter for instruction) Date: \_\_\_\_\_ Date: \_\_\_\_\_ Date: \_\_\_\_\_ Date: \_\_\_\_\_

☐ Cancelled (See attached letter) Date: \_\_\_\_\_

☐ Accepted at the First Level of Review.

Assigned to: \_\_\_\_\_ Title: \_\_\_\_\_ Date Assigned: \_\_\_\_\_ Date Due: \_\_\_\_\_

First Level Responder: Complete a First Level response. Include Interviewer's name, title, interview date, location, and complete the section below.

Date of Interview: \_\_\_\_\_ Interview Location: \_\_\_\_\_

Your appeal issue is: ☐ Granted ☐ Granted in Part ☒ Denied ☐ Other: \_\_\_\_\_

See attached letter. If dissatisfied with First Level response, complete Section D.

Interviewer: \_\_\_\_\_ Title: \_\_\_\_\_ Signature: \_\_\_\_\_ Date completed: \_\_\_\_\_  
(Print Name)

Reviewer: \_\_\_\_\_ Title: \_\_\_\_\_ Signature: \_\_\_\_\_  
(Print Name)

Date received by AC: \_\_\_\_\_

AC Use Only  
Date mailed/delivered to appellant \_\_\_\_ / \_\_\_\_ / \_\_\_\_



DEPARTMENT OF CORRECTIONS AND REHABILITATION

IAB USE ONLY

Log #:

Category:

19-04449

7

FOR STAFF USE ONLY

Appeal is subject to rejection if one row of text per line is exceeded.

WRITE, PRINT, or TYPE CLEARLY in black or blue ink.

CDC Number:

Unit/Cell Number:

Assignment:

F-07215

A-6-230

Porter

NOV 26 2019

STAFF USE ONLY

REC BY OOA

JUN 08 2020

A. Continuation of CDCR 602, Section A only (Explain your issue):

wall so he could pat us down. In doing his pat down C.O. Gonzalez did a improper pat down in which he made contact ~~with~~<sup>squeezed my genital area (penis)</sup>. This was a sign of manipulation to get a reaction from inmate to violence. C.O. Gonzalez has a history of harassment towards inmates. So inmate files this complaint as required by Title IX. Under 3401.5 Sexual misconduct is not limited under section (E). After the pat down me and Rhodes had been locked in the shower. 10 minutes later C.O. Gonzalez gave the A/C Tower order to open shower then C.O. Gonzalez striped us out are clothing on tier 3004 under Section (b) C.O. Gonzalez continue to violate section 3004 (b).

~~I am requesting you please go back to work I am not going to file a grievance against you.~~

Write this log in truth, and ask respectfully be looked at.

Inmate/Parolee Signature: Am. L. H. B. 2019

Date Submitted:

**B. Continuation of CDCR 602, Section B only (Action requested):**

**Inmate/Parolee Signature:**

Date Submitted:



# Memorandum

Date : May 7, 2020

To : A. Butler, F07215  
FAB6-230L  
Kern Valley State Prison

Subject: **STAFF COMPLAINT RESPONSE - APPEAL # KVSP-O-19-04449 SECOND LEVEL RESPONSE**

**APPEAL ISSUE:** On November 26, 2019, you alleged a Prison Rape Elimination Act (PREA) violation against a Kern Valley State Prison (KVSP) correctional staff member.

**DETERMINATION OF ISSUE:** Your allegation of staff sexual misconduct has been reviewed by the Hiring Authority. As a result of that review, your appeal was referred for a PREA investigation.

## **SUMMARY FOR APPEAL INQUIRY:**

You were interviewed on November 26, 2019, by the Investigative Services Unit (ISU) Correctional Sergeant J. Gaddis and you stated KVSP Correctional Officer R. Gonzalez-Moran sexually battered you at KVSP.

The matter was referred for an **investigation**, conducted by ISU staff locally. This matter is still pending. Upon completion of the PREA investigation, you will be notified if the allegation was found to be Substantiated, Unsubstantiated, or Unfounded, per the Department of Operations (DOM) Manual Section 54040.6.

## **FINDINGS:**

Your appeal is PARTIALLY GRANTED in that:



- The matter is still pending a PREA investigation by KVSP ISU.

**ALL STAFF PERSONNEL MATTERS ARE CONFIDENTIAL IN NATURE.** As such, the details of any inquiry or investigation will not be shared with staff, members of the public, or offender appellants. Although you have the right to submit a staff complaint, a request for administrative action regarding staff or the placement of documentation in a staff member's personnel file is beyond the scope of the staff complaint process. Allegations of staff misconduct do not limit or restrict the availability of further relief via the inmate appeals process. If you wish to appeal the decision, you must submit your staff complaint appeal through all levels of appeal

Butler, F07215

Page 2

review up to, and including, the Secretary's Level of Review. Once a decision has been rendered at the Third Level, your administrative remedies will be considered exhausted.

Name	<u>J. Gaois</u>	Signature	<u></u>	<u>5/17/2020</u>
	Interviewer			Date
Name	<u>R. Godwin</u>	Signature	<u></u>	<u>5/17/2020</u>
	Hiring Authority			Date

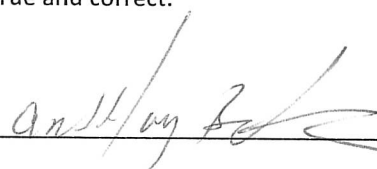
V. Relief

State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

WHEREFORE THE REASONS ASSERTED HEREIN PLAINTIFF RESPECTFULLY REQUEST THE COURT ORDER THE SAID NAMED DEFENDANT BE HELD TO COMPENSATE PLAINTIFF 250,000 FOR THE VIOLATION OF HIS CIVIL RIGHTS, U.S. CONST. 8th AMEND.

I declare under penalty of perjury that the foregoing is true and correct.

4 Date: 10-12-2021

Signature of Plaintiff:  X